

**COMMONWEALTH OF KENTUCKY  
MINE SAFETY REVIEW COMMISSION  
ADMINISTRATIVE ACTION NO. 03-MSRC-006**

**COMMONWEALTH OF KENTUCKY,  
DEPARTMENT OF MINES AND MINERALS**

**COMPLAINANT**

**v.**

**JOHNNY GOLEY**

**RESPONDENT**

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**FINAL ORDER**

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This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Johnny Goley, and the members of the Commission having reviewed the Settlement Agreement filed on May 21, 2003 in the matter herein, and the Commissioners being sufficiently advised,

**IT IS HEREBY ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Johnny Goley's Underground Mine Foreman's Certificate, # A-\*\*\*-\*\*, issued by the Commonwealth of Kentucky, shall be placed on **PROBATION** for a period of two and one half (2 ½) years, effective May 16, 2003;
3. During said probationary period, if Respondent Goley willfully violates any state or federal mine safety laws or regulations, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # A-\*\*\*-\*\* for the remainder of the two and one half (2 ½) year probationary period;

4. The Respondent, Johnny Goley's Electrical Certificate, # BE-\*\*\*-\*\*, issued by the Commonwealth of Kentucky, shall be placed on **PROBATION** for a period of two and one half (2 ½) years, effective May 16, 2003;

5. During said probationary period, if Respondent Goley willfully violates any state or federal mine safety laws or regulations, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # BE-\*\*\*-\*\* for the remainder of the two and one half (2 ½) year probationary period;

6. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

7. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Goley, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13);

8. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Johnny Goley, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and

9. **Appellate rights:** Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which

review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this \_\_\_\_\_ day of June 2003.

BAYARD V. COLLIER, CHAIR  
MINE SAFETY REVIEW COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this \_\_\_\_\_ day of June 2003:

JOHNNY GOLEY

\*\*\*\*\*

WILLIAMSBURG KY \*\*\*\*\*

And by messenger mail to:

COMMISSIONER FRANK DELZER  
DEPT. OF MINES & MINERALS  
1025 CAPITAL CENTER DRIVE  
FRANKFORT KY 40601

HON. TONY OPPEGARD  
GENERAL COUNSEL  
DEPT. OF MINES & MINERALS  
1025 CAPITAL CENTER DRIVE  
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION  
132 BRIGHTON PARK BLVD.  
FRANKFORT KY 40601

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DIANE SCHULER FLEMING  
GENERAL COUNSEL  
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS	)	
	)	
Complainant	)	
	)	
v.	)	Administrative Action No. 03-MSRC-006
	)	
JOHNNY GOLEY	)	
	)	
Respondent	)	
	)	

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**SETTLEMENT AGREEMENT**

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Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”; “the Department”) and the Respondent, Johnny Goley (“Goley”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him, Goley - without admitting the allegations made against him in KDMM’s Complaint - hereby agrees to the **PROBATION OF HIS UNDERGROUND MINE FOREMAN’S CERTIFICATE (# A-\*\*\*-\*\*) AND THE PROBATION OF HIS ELECTRICAL CERTIFICATE (# BE-\*\*\*-\*\*), EACH FOR A PERIOD OF TWO AND ONE HALF (2 ½ YEARS)**, effective upon the signing of this Settlement Agreement by both parties.

During said period of probation, Goley agrees to comply with all state and federal mine safety and health laws and regulations. The willful violation by Goley of any of said laws or regulations may result in the Department filing a motion with the Mine Safety Review

Commission (“the Commission”) to revoke Goley’s underground mine foreman’s certificate and/or his electrical certificate for the remainder of the two and one half (2 ½ ) year probationary period.<sup>1</sup> In that case, Goley would be entitled to a hearing before the Commission on the allegations against him.

Goley further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a “first offense”, as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission - regarding a separate alleged offense - will be deemed a “subsequent offense” as defined at 805 KAR 8:010, Section 1 (13).

Goley understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Goley further states that he has carefully read and considered this Settlement Agreement prior to signing the Agreement, and that he understands and agrees to its terms and provisions.

KDMM and Goley acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

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JOHNNY GOLEY  
\*\*\*\*\*  
Williamsburg, Kentucky \*\*\*\*\*

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FRANK X. DELZER, Commissioner  
Kentucky Dept. of Mines & Minerals  
P.O. Box 2244  
Frankfort, Kentucky 40602

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<sup>1</sup> If the circumstances warranted, KDMM would also retain the right to file a separate action with the Commission seeking other penalties against the Respondent for his actions.



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DATE

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DATE

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Settlement Agreement was hand-delivered this \_\_\_\_\_ day of May, 2003 to Johnny Goley, \*\*\*\*\*,  
Williamsburg, Kentucky \*\*\*\*\*.

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TONY OPPEGARD  
General Counsel  
KENTUCKY DEPT. OF MINES & MINERALS